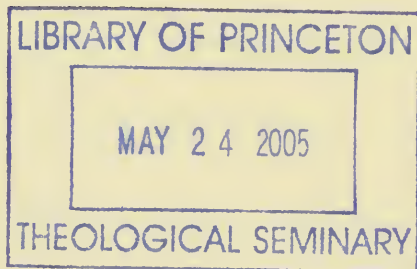



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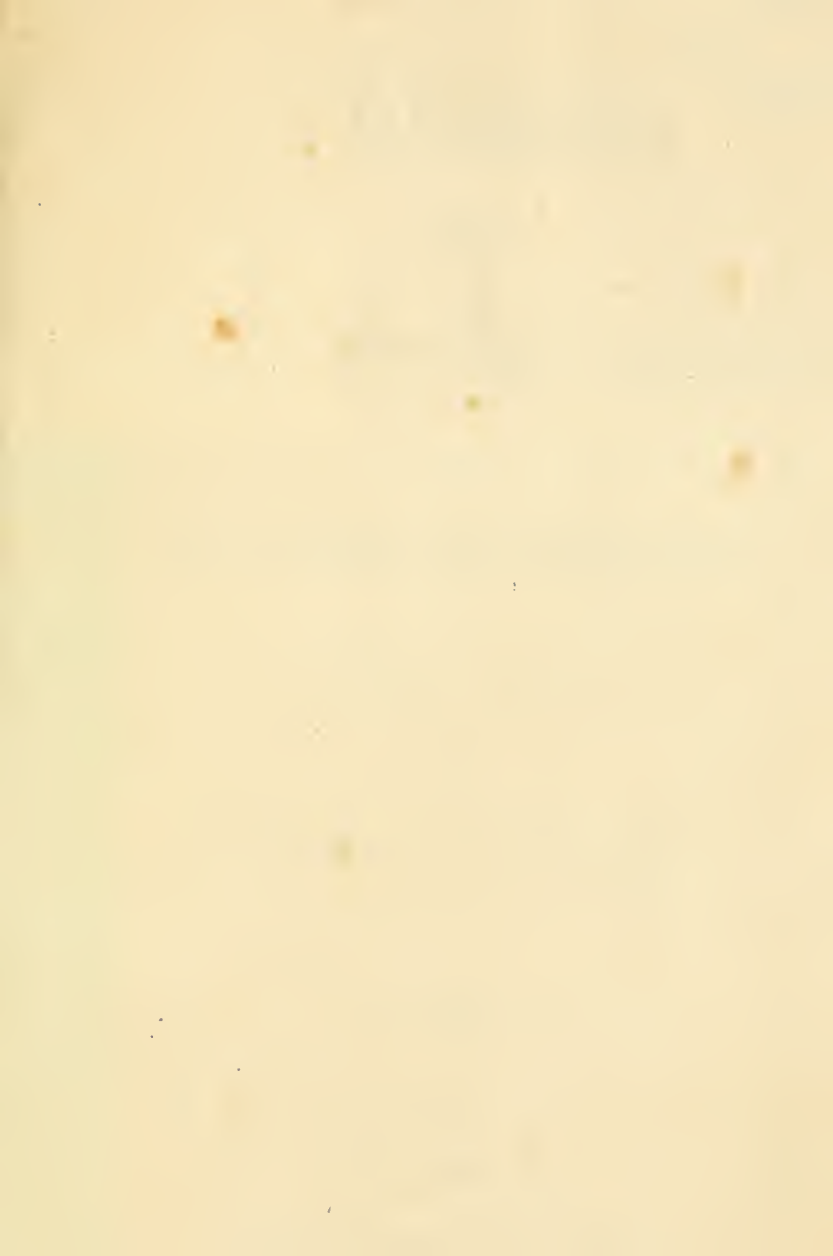




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SPEECH

OF

HON. T. STEVENS, OF PENNSYLVANIA,

ON THE

PRESIDENT'S MESSAGE CONCERNING TEXAS AND NEW MEXICO.

Delivered in the House of Representatives, August 14, 1850.

Mr. STEVENS said:

Mr. CHAIRMAN: I fear I shall be thought somewhat bold, when I announce my determination to defend the President from the assaults of the gentlemen from Georgia, [Mr. STEPHENS and Mr. TOOMBS,] the gentleman from Mississippi, [Mr. BROWN,] and other Southern gentlemen; and the still more grievous assaults of the gentleman from Massachusetts, [Mr. ASHMUN,] who has just taken his seat.

The message of the President of the United States relative to New Mexico has been bitterly assailed by gentlemen on this floor, without distinction of party; unless parties have already assumed a geographical organization, to which I fear they are fast and inevitably tending. The gentleman from Mississippi, [Mr. BROWN,] of one party, concurs with the gentlemen from Georgia [Messrs. STEPHENS and TOOMBS] of the other party, and other Southern gentlemen, in denouncing the principles of the message as subversive of civil liberty. The most fearful consequences are predicted, and the most terrible vengeance threatened. Civil war, disunion, and bloody desolation, are the mildest figures with which they garnish their discourses.

To their impotent threats, and their gory predictions, I have nothing to say. They do not rise to the dignity of argument, or the efficacy of potential menace. I am at a loss to know why they are so often paraded before us, unless they have become chronic phantasies of the brain, or are cunningly expected to operate on the timidity, not to say cowardice, of the North.

May I tell Southern gentlemen that I think they mistake Northern character? I admit that the North, in this and the other branch of Congress, have shown all the usual symptoms of cowardice. Notwithstanding the rude and vulgar assault made by the gentleman from Massachusetts [Mr. ASHMUN] on the gentleman from Ohio, [Mr. GIDDINGS,] for referring to the acts of Senators, I crave his mercy while I say, that I believe every Northern Senator who voted for this Texas boundary bill—certainly every Northern Whig Senator—believed, and most of them expressed the belief, that Texas had no shadow of title to one particle of the soil of New Mexico. The gentleman from Massachusetts [Mr. ASHMUN] this morning declared his firm belief of the same fact; yet they voted, and he avows his determination to vote, for a bill surrendering to Texas more than fifty thousand square miles of New Mexico, and giving her ten millions of dollars! For what? To buy peace from armed rebels! This evidence would certainly, *prima facie*, warrant the conclusion that the North were cowards. But you must perceive that to be impossible, when you remember that they are the descendants of the men of Bunker's Hill, of Lexington, of Bennington, of Saratoga, and of Brandywine.

Why, sir, it is the effect of mere benevolence. True, we turn pale and tremble somewhat, and plead and supplicate, and finally yield. It is not the effect of fear, but humanity—the love of rebels! So copious is the milk of human kindness in Northern breasts, that it overflows, runs down upon the sinews and nerves, and loosens and relaxes them, so that at the

loud voice of mimic treason, and the imaginary gleamings of Southern bayonets, our frames become convulsed and our knees smite together. This is not cowardice, but benevolence!—the love of peace! If any should taunt us with want of courage, as they will do, after we shall have surrendered and been marched out of camp with furled banners, we can refute it by pointing to our Revolutionary fathers, as effectually as could the Lazaroni of Rome, by vaunting the courage of their Trojan ancestors, and showing the brave acts of the mighty Hector before the walls of Troy, or of their immediate progenitor, the warlike Æneas, on the plains of Latium.

It ought, perhaps, to be confessed, that there is another cause that operates upon our commercial and moneyed communities. The price of stocks—the *cent per cent.* are vital and sensitive parts of their nature, which it is their amiable duty *to themselves* to nourish. The pocket lies close to the heart, and often affects it with involuntary tremor. But this is not mercenary interest, but duty!

I will now briefly examine the legal and constitutional principles contained in the message, which have been so severely criticised.

The message states that the Constitution requires that the "President shall take care that the laws shall be faithfully executed." That the acts of Congress of 1795 and 1807 declare, that whenever the laws of the United States shall be opposed, or their execution obstructed, by combinations too powerful to be suppressed by the ordinary judicial tribunals, or the power vested in the marshals, the President may call forth the military and naval force of the country, as far as necessary to suppress such combinations. That New Mexico was conquered by the United States; possession taken by her army; and subsequently it was ceded by treaty to the United States, who have ever since been in possession as Mexico was before, it never having been occupied by Texas, nor her jurisdiction exercised over it for a moment. That by the treaty of cession, made between the United States and Mexico, this Government expressly stipulated, that until New Mexico should be admitted into the Union as a State, the inhabitants should be protected in the enjoyment of their lives, liberty, property, and religion. That such treaty is the supreme law of the land, and makes it the duty of the President to protect New Mexico from all invasions, and forcible possession from any quarter, until her true limits be ascertained and peaceably settled. And the President expresses his determination thus to execute the law, and use, if need be, the military power of the Government for that purpose. These, I think, are all the principles to which objection has been made.

The gentleman from Georgia [Mr. STEPHENS] denies the right of the Executive to interpose to preserve the laws until a judicial decision has been had, and the process shall have been resisted. I shall answer his argument, endorsed by his colleague, [Mr. TOOMBS,] as the argument of all on that side of the question. Wide as we differ in opinion, I always listen to him with pleasure, on account of the clear, distinct, and fearless manner in which he maintains his opinion. I have much more respect for bold, sincere, manly error, than for timid, drivelling, wavering truth. He says, further, that there are no judicial tribunals in New Mexico to issue process, and therefore no case can possibly arise within that Territory to justify the Executive interposition. He contends, that although a treaty is by the Constitution the supreme law of the land, that the President cannot execute it until Congress passes laws to enable him to do so. I think the gentleman is wrong both in his law and facts. Many parts of treaties may be and are executed without any legislative provisions. Without an act of Congress the President is competent to take possession of ceded territory, and of course to hold it. He may, in pursuance of a treaty of peace, stop the war, recall the army and navy, withdraw our troops from

and surrender captured fortresses and territory. All this was done in the case of Mexico without legislative enactment. It is true there are sometimes stipulations in treaties which require the aid of Congress to fulfil. Where money is agreed to be paid, as mentioned by the gentleman from Georgia, the aid of Congress is necessary, because the Constitution provides that "no money shall be drawn from the Treasury but in consequence of appropriations made by law." So it is with the other case cited by the gentleman, of a commercial treaty granting to a foreign power privileges with regard to duties on commerce inconsistent with existing laws. The gentleman says truly, I think, that the treaty cannot go into effect until Congress repeals those laws. The reason is obvious. The treaty-making power has no right to regulate foreign commerce—that is expressly reserved by the Constitution to Congress. In my judgment, such provisions in a treaty are a nullity until ratified, not by the Senate only, but by both Houses of Congress. I know it has been customary for the President and Senate to insert such provisions in treaties, and to call on Congress to provide for their execution. I think it is a dangerous assumption of power. If such treaties are valid *per se*, all the industrial pursuits of the country—the whole system of imports, of revenue, of tariff of duties, would be at the mercy of the President and two-thirds of the Senate. I trust such treaties will be sparingly made.

But except where, by the Constitution, the provisions of a treaty require the concurrent action of Congress, all treaties, being supreme laws of the land, may be executed by the President alone. President Polk executed a large part of the treaty of Hidalgo, without legislative action. It provided for peace. He stopped the conflict of arms. He withdrew our troops from Buena Vista and Mexico, and surrendered the fortresses of Monterey, Vera Cruz, and all others in territory not permanently ceded to the United States.

It is said that the President can take no means to protect the peaceable inhabitants of a Territory, and to repel invasion, until legal proceedings have been had and successfully resisted. Such, I think, is not the spirit of the Constitution, nor a fair construction of the acts of Congress. The act of 1795, on which the gentleman relies, authorizes the use of military force whenever the "laws are opposed, or their execution obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the marshals." It does not require previous judicial proceedings. The *fact* of opposition to the laws by *combinations too powerful to be suppressed* by the ordinary police and judicial authorities, is a contingency which authorizes the action of the Executive. Such combination need not be judicially proved preliminary to action, or the whole law would be nugatory and useless. Suppose a body of pirates, such as infest the Chinese seas, or such as formerly descended from Denmark to invade and plunder England, should navigate the Rio Grande, and threaten to land by thousands in New Mexico, and burn and plunder the country, and destroy the inhabitants: must the courts summon them to appear before them on a given day, and answer; and if they did not, give judgment against them by default, issue their warrant, and have its execution obstructed, before the President could repel them by force? Must the constable attempt to seize them and bind them over to keep the peace, before the troops of the United States could be placed on the shore, and meet them at the point of the bayonet? If this be true, an actual invasion must first be allowed, for judicial process could not be served beyond the line. When the Camanche Indians invade a village of New Mexico by night, and begin to massacre the inhabitants, must the United States troops withhold resistance until the efficacy of a magistrate's warrant or a sheriff's *posse* shall have been tried and failed? Suppose five hundred or a thousand frontier ruffians, from other States, should assemble on the borders of Texas, with the known purpose

of making an inroad upon New Mexico, of taking possession of the land, exterminating the inhabitants, and establishing themselves after the ancient manner of the northern hordes; could not the President order the army to meet them on the border and repel them by force, before any judicial proceeding had taken place? The very statement of the position of the gentleman, I think, shows its absurdity; and when a proposition is reduced to absurdity in logic, as well as in mathematics, it must be false.

But other gentlemen say, that if a sovereign State orders such invasion, it changes the character of the act, and protects the actors from the operation of those parts of the Constitution and laws on which the President relies. Why so? A treaty is the supreme law of the land. The Constitution declares that the judicial authorities shall be bound by the Constitution, and treaties made under authority of the United States, *anything in the Constitution or laws of any State to the contrary notwithstanding*. A law of Texas authorizing her troops to violate a treaty is a nullity, and gives no more authority than the mandate of a bandit chief.

Texas can in no way be injured by the course of the President. If she thinks she has rights, of which she is out of possession, let her assert them by legal proceedings, and they should be met in the same peaceful manner. If she attempt to assert them by force, let force be the answer. The argument of the gentleman would put New Mexico in a position which would put it out of the power of the Executive ever to protect her, no matter what lawless violence should afflict her. It is said the President cannot interpose until the Judiciary has first acted; and that there is no judicial organization or officers in New Mexico. Consequently, the contingency can never happen to her which would justify the action of the President. Nor can there be power anywhere to protect her from violence. If this be true, deplorable is the condition of that unhappy people! The overruling law of necessity would justify them, and the Power who has undertaken to be their guardian, to act in their defence. But the gentleman is mistaken. From the time that Mexico was a vice-royalty of Spain, this province has had an organized government. It had one at the time we conquered it, which, slightly modified by General Kearny, existed at the date of the treaty of Hidalgo. By the law of nations, such organization, with the existing laws, continues in force until repealed by Congress. They never have been repealed. There is at this moment a regular judiciary, from supreme judges to inferior magistrates called *alcaldes*. Judicial proceedings are as regularly conducted and executed in New Mexico as in Texas. The laws are enforced by the ordinary civil officers.

But with or without a judiciary, I have, I think, shown that the President possesses the constitutional power to "see the laws executed." If there be no judiciary, the duty of active interference is more urgent.

I think, sir, that so far as the principles of the message denounced by the South are concerned, they are too clear and sound to be for a moment doubted by impartial minds.

There is one position taken in the message, which I cannot understand the force of. I think it erroneous; an error, which was prompted by the purest and most amiable motives, and admitted inadvertently in the great anxiety to preserve the harmony of the country. It urges the settlement of the Texas boundary; and, as a strong inducement, states that "no Government can be established for New Mexico, either State or Territorial, until it shall be first ascertained what New Mexico is, and what are her limits and boundaries." It is evidently intended to assert that there is an insuperable *legal* obstacle to giving government to a Territory, or admitting a State into the Union, until her boundaries are precisely fixed, and beyond dispute. If this be so, no State could be admitted into or exist in the Union, with disputed limits. And yet Massachusetts and Rhode Island were admitted into and have existed in the Union for sixty

years with unsettled and disputed boundaries, which have only lately been determined by the Supreme Court of the United States.

Mr. FOWLER. There is now a question of contested boundary between Massachusetts and Rhode Island.

Mr. STEVENS. Why do you not make war on each other, according to the mode threatened by Texas?

Mr. FOWLER. We prefer leaving it to the legal tribunals.

Mr. STEVENS. Ohio had unsettled boundaries. Missouri and Iowa were both admitted, and remained in the Union with disputed boundaries. Missouri sent her armed force to extend her jurisdiction over part of the possessions of Iowa. Much bluster, but no blood was shed. The Supreme Court finally decided in favor of Iowa.

Texas herself came into the Union with undefined, unknown, and disputed limits, and they remain unsettled to this day, or we should not have this trouble. That dispute was known and recognised by the very act which admitted her.

The joint resolution for annexing Texas to the United States says: "Congress doth consent that the *territory properly* included within and *rightfully* belonging to the Republic of Texas may be erected into a new State, in order that the same may be admitted," &c.

In the 2d section it provides: "Said State to be formed subject to the adjustment by this Government of all *questions of boundary* that may arise with other Governments." The position assumed by the message seems to be in conflict with uniform precedents. Nor do I see anything in the nature of the subject to sustain the remark. I see nothing to prevent Congress from adopting, with regard to New Mexico, the very language of the act admitting Texas, and to provide "that New Mexico, with the *territory properly included within* and *rightfully belonging to* New Mexico, may be erected into a State or Territory, and admitted," &c. She would then have a Government, and the question of boundary would be settled as in all like cases. This is a venial error, but important to be known, as it has a material bearing upon our action in this matter.

I come now to a part of the message, the meaning of which I think has been most materially and unfortunately mistaken by the gentleman from Massachusetts, [Mr. ASHMUN.] In that gross mistake he has done much to bring reproach on the Administration. From that reproach it shall be my effort, as it is the duty of every friend of the Administration, to vindicate it. He says that the President recommends a speedy settlement of the boundary question, and suggests indemnity to Texas. And that, in pursuance of such recommendation, we have the present bill before us. He announces also, in emphatic language, the important fact, **THAT THIS BILL HAS HIS SUPPORT!** And then, as a regular consequence, he denounces all those who are rash enough to oppose it, as reckless fanatics, regardless of the public welfare, and plotters of disunion and civil war!

Sir, who gave that gentleman authority to use such language to members of this body who choose to follow the dictates of their own judgment and conscience? Whose deputy dictator is he? But, above all, who gave him authority to charge the President with producing or favoring this bill? What covert malignity has urged him to fix such a stigma on this Administration? He had no such authority—nor does the Administration approve of it, as I will prove from the explicit terms of the message. In fact, the bill on our table was introduced into the Senate days before the message was written. But to the message itself. The message can leave on the mind of no one any doubt of the opinion of the President as to the true limits of New Mexico, and the claim of Texas to any part of it.

The title of Texas, being founded on revolution alone, could not exist an inch beyond actual possession. The President clearly shows that she never possessed any part of New Mexico; that it was occupied by Mexico

exclusively until it was conquered and possessed by the United States. Indeed, if this were not so, he could have no justification in resisting the threatened occupation by Texas. The gentleman from Massachusetts [Mr. ASHMUN] stated his clear conviction, that Texas has not a shadow of title to any part of that Territory. With this distinct opinion of the President and of the gentleman himself, let us examine that part of the message upon which he founds his charge against the Executive. It says: "*If the claim of title on the part of Texas appears to Congress to BE WELL FOUNDLED, in whole or in part, it is in the competency of Congress to offer her an indemnity for the surrender of that claim.*" Can language be plainer? It says, virtually, "I have given my own opinion; but if Congress, on the contrary, believe that New Mexico, in whole or in part, belongs to Texas, *then* it would be competent for Congress to purchase that claim for a reasonable sum." No man acquainted with language can mistake the distinct implication, that if Congress believes that Texas has no just right to any part of New Mexico, it is not *competent* for Congress to vote away the People's money to purchase a claim which has no foundation. I marvel that the gentleman should venture, from such a passage, to charge this Administration with a recommendation to pay ten millions of money, and surrender to Slavery fifty thousand square miles of free territory (enough for two States) to reward the audacity of a rebel State.

Thank Heaven, the message is obnoxious to no such scandal! The recommendation is patriotic and statesmanlike. It says, in effect, "If Texas owns this territory, purchase it from her and devote it to freedom. As she is feeble, poor, and proud, deal liberally with her. If she does not own it, it is not *competent* for Congress to offer an indemnity. You know all the facts. Go on: fix the true boundary, and establish either a State or Territorial Government." These are noble sentiments, and such as will commend themselves to all manly minds.

But the gentleman from Massachusetts [Mr. ASHMUN] says for himself, what he cannot be allowed to say for the Administration. "I know," he says, "that Texas has not a spark of title to any portion of this land; but she threatens war, and I will vote her territory larger than New York, and ten millions of the public money, to purchase a peace!" The Government declares the whole to be the rightful possession of New Mexico, and they will thus maintain it until the claim of Texas be legally established. Texas rises in her wrath with a few Southern auxiliaries, and threatens to put her armies in hostile array against the Government. Does it become the honor, the policy, or the permanent peace of the nation, to submit to her demands; to negotiate, and buy off armed rebels? Such a course is as dangerous as it is disgraceful, and would be our final ruin. The distinguished Senator from Kentucky [Mr. CLAY] never uttered a nobler, more patriotic, or more humane sentiment, than when the other day he declared in the Senate—"I stand here in my place meaning to be awed by no threats, whether they come from individuals or from States. If any one State, or a portion of a State, choose to place themselves in military array against the Government of the Union, I am for trying the strength of the Government of the Union. I am for ascertaining whether we have got a Government or not—practical, efficient, capable of maintaining its authority, and of upholding the power and interests which belong to the Government. . . . Nor, sir, am I to be alarmed or dissuaded by any such course as the intimation of the spilling of blood. If blood is to be spilt, by whose fault is it to be spilt?"

I have never doubted that the concession made to nullification in 1833 was the bitter root of all this trouble. Had the stern old hero who then occupied the Executive chair been permitted to "execute the laws," and execute the traitors, if need be, we should never again have heard a rebellious minority shouting "disunion!" "civil war!" "bloody devastation!"

Sir, if these threats are to operate on legislation, we have no Government. A factious and rebellious minority will rule us. A worse despotism could not be conceived. Terror would take the place of law. All history warns us to make no such concessions. It is the same mean system which was pursued by the Scottish Lowlanders, when the Highland Catarans descended from their hills with their marauding clans, and swept off their flocks and herds. They paid them black-mail as "indemnity" for restoring the stolen property, and to purchase temporary forbearance. It is the same system which for ages disgraced the Christian world, while they paid tribute to the Barbary Powers. The piratical Governments of Algiers and Tunis sent out Corsairs to plunder and take captive Christian men and women, to sell them into slavery. The European Powers, and, for a while, the United States, treated with them, and paid them an annual tribute to ransom the captives and purchase a hollow peace, soon to be broken, to be again repurchased. They never received the right kind of tribute, until America sent her gallant Commodore to bombard them by sea, and the hero of Derne to attack them by land. England followed the example, and sent them her last tribute through the cannon of Lord Exmouth. France did likewise. The Dey of Algiers and the Bey of Tunis no longer disturb the world with the cry of "Ransom or blood!"

Instead of meeting them sword in hand, degenerate Rome paid vast sums of gold to the Goths and Vandals, to induce them to return to their forests, and cease their devastations. Their cupidity and exactions increased with indulgence, until they crushed that degraded people, and blotted the Roman Empire from the list of nations.

Submission! Purchase our peace! What has become of the spirit of our fathers which exclaimed, "Millions for defence, but not a cent for tribute!"

Here, perhaps, I ought to stop. But the gentlemen to whom I am replying have in this connection discussed the Texan boundary: it is premature, as we shall have the subject again directly before us. But I will devote a few moments to it.

The title of Texas to any part of her territory is wholly revolutionary. She has no charter, grant, nor prescriptive possession. By the law of nations, the right of revolutionary Governments extends no further than they have actually conquered, taken, and *held in actual possession*. None of their decrees, enactments, or proclamations, are recognised as establishing any title. At the time of the annexation of Texas to this Republic, she had conquered and was in possession of a certain extent of country, although her independence had never been acknowledged by Mexico. That possession was the extent of her rightful limits when she ceased to be a Republic and became a State. I understood the gentleman from Virginia [Mr. SEDDON] to say there might be constructive possession to more. I think I must have misunderstood the learned gentleman.

Mr. SEDDON. The gentleman attributes to me what was said by the gentleman from South Carolina, [Mr. WOODWARD.] He spoke of constructive possession. I required actual possession.

Mr. STEVENS. The gentleman is right. It was the gentleman from South Carolina.

Well, sir, the rightful limits of Texas are now precisely what they were when she was admitted into the Union as a State. States can make no conquests; for, by the Constitution, they can make no wars. All conquests made by the army or militia are made for the United States. What were her true limits—her actual possessions when the United States admitted her and assumed the war? She held the country between Louisiana and the river Nueces. Beyond that river she did not hold a rod of ground. Corpus Christi, at its mouth, was her furthest military post. Between the Nueces and the Rio Grande, from its mouth to its source, was

inhabited by Mexicans, acknowledging allegiance to that Government, and governed by her laws and civil magistrates. On the east side of the Rio Grande, between it and Texas, lie parts of the ancient Mexican departments of Tamaulipas, Coahuila, Chihuahua, and New Mexico. The United States sent *her* troops and *her* officers, and conquered all of them from Mexico. General Taylor conquered the two first, Colonel Doniphan Chihuahua, and General Kearny New Mexico. Texas had no army there. She could have none there, for she was a State of the Union. But it is said that the United States conquered it for Texas. Why not for Kentucky or Mississippi? Their troops aided in the battles. The money of the whole Union paid the expenses of the war, and the fifteen millions to Mexico. The conquest was made *by* the nation, and *for* the nation. The territory below New Mexico thus conquered lies between the Rio Grande and the Nueces; and between the Gulf of Mexico and the lower line of New Mexico, being about one hundred miles wide by six hundred long, containing more than sixty thousand square miles, independent of New Mexico. Being but thinly inhabited, the United States has tacitly permitted Texas to extend her jurisdiction over it. Every foot of this ground belongs to the United States. But we have quietly surrendered it to Texas and slavery. New Mexico we never did surrender, but have held exclusive possession of it since its conquest. True, Texas, in 1836, passed an act claiming it. But from that time until the United States conquered it, about twelve years, she does not pretend she ever took possession. Paper *ex parte* declarations give no rights, or we should own to the north pole. General Smythe conquered Canada by proclamation. Why do we not enforce the title at the point of the bayonet, or extort an "indemnity?" Disturnel's map, affixed to the treaty of Hidalgo, is relied on as tending to fix the limits of Texas. This is an entire mistake. That treaty does not profess to fix the boundary of Texas. The map is referred to to designate the line *then* agreed on between Mexico and the United States, and for that purpose alone. It describes no line except up the Rio Grande to the lower limits of New Mexico, and thence along the line of New Mexico *west* of that river towards the Pacific ocean. That was the line—not between Texas and Mexico, but between the United States and Mexico, showing clearly that the land on one side of the line belonged to the United States Government, and on the other to Mexico. All sound men who have examined it pronounce the claim of Texas absurd. Mr. Clay, concurring with the late President, General Taylor, Messrs. Webster, Benton, Ashmun, and others, wholly repudiate it. Yet we are asked to add fifty thousand square miles of *our* territory, now free, to Texas, and surrender it to slavery, and give ten millions to pay her for taking it. Sir, if Texas were to give *us* ten millions, I would not sell it to her for such an abhorred purpose. The bill on your table is a compliance with such demand; to which I rejoice that the President's message gives no sanction, and imposes no such crushing responsibility on his friends. I know the pressure there is upon us. I know that Texas stock, by millions, is held by mercenary speculators, who surround this Hall and press this measure. If successful, it will enrich them out of a plundered Treasury. I do not pretend to insinuate *who* are interested in this gigantic swindle. Parliamentary law excludes the idea that they are in Congress or in office. Sir, I shall regard none of this pressure. I would do full justice to Texas. I would not take a foot of land which belongs to her. Nor would I give her any to train her slaves upon. And, above all, I should despise myself if I should pay her money to purchase peace. Pass this bill, and, instead of bringing repose, it will be the cause of constant agitation and sedition. It will become the fruitful mother of future rebellion, disunion, and civil war, and the final ruin of the Republic. Do your duty firmly—show that you are fit to be a Government—and this Union will be perpetual.

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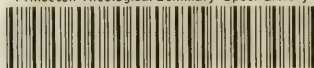
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